

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-5401**

**1911**

November 6, 2009

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RE: Implications of Media Ownership Limitations on Puerto Rico Broadcasters

Dear Chairman Genachowski:

I am writing to request your consideration of an issue of considerable importance to radio stations in Puerto Rico. As you are likely aware, the Federal Communications Commission ("FCC") released new local radio multiple-ownership rules in its June 2003 Report and Order (the "Report and Order"). Those rules adopted, where available, the "Metro Survey Area" classifications used by the media research firm Arbitron as the FCC's new definition of the "local radio market." The definition of a radio market is important because no entity may own more than a specific number of radio stations in a particular market (the "ownership rule"). Under Arbitron's definition of market, the entire island of Puerto Rico is classified as one market, in contrast to the classification made by another federal agency. Consequently, individuals in Puerto Rico are treated differently from those on the U.S. mainland, who have the ability to own a greater number of stations because of more appropriate market definitions. I respectfully request that the FCC reconsider its position on the definition of "local radio market" for Puerto Rico and, in the interim, address pending waiver requests of Puerto Rico broadcasters concerning the ownership rule.

Arbitron's and the FCC's classification of Puerto Rico as one market is in direct opposition to the Office of Management and Budget's ("OMB") definition of "Metropolitan Statistical Areas" ("MAS") for Puerto Rico. I understand that, in areas of the United States other than Puerto Rico, Arbitron's definition of "local radio market" is based on OMB's MAS. In the case of Puerto Rico, however, Arbitron has used an alternative metric because, as I understand, using OMB's MAS would have required Arbitron to increase its survey sample size of radio listeners. Thus,

Arbitron uses a separate metric for defining the local radio market in Puerto Rico than it does in all other parts of the United States.

According to the most recent OMB MA list, which incorporates information from the 2000 census, Puerto Rico has eight MAs—not one, as determined by Arbitron. The adverse effects of the application of Arbitron's definition are described in Comments filed by the Puerto Rico Radio Broadcasters Association in a proceeding before the FCC (FCC 03-130, *Definition of Radio Markets for Areas Not Located in an Arbitron Survey Area*) and in a Petition for Reconsideration of the Report and Order filed by Arso Radio Corporation. Simply put, the geography and size of the island of Puerto Rico make it physically impossible to be one "market" for purposes of a radio audience. A listener in San Juan cannot hear a station in Mayaguez and vice versa.

Moreover, adoption of the OMB's definition of "local radio market" for Puerto Rico would further the goal, articulated by then-Chairman Copps at the FCC Diversity Advisory Committee meeting on May 7, 2009, of increasing minority ownership of broadcast facilities. By enabling the minority-owned broadcasters in Puerto Rico to strengthen their business operations and achieve island-wide distribution of their programming, adoption of the OMB definition would facilitate these broadcasters' continued survival in an extremely challenging economy. Alternatively, use of the contour overlap methodology, which allows ownership of a certain number of stations whose signals overlap, would solve the problem posed by the FCC's current ownership rule. Absent implementation of one of these two approaches, there will likely be a decrease in minority ownership of radio stations as broadcasters will be forced to sell their stations.

In the interim, I ask that you address pending waiver requests of the ownership rule as currently defined, as contemplated by the Report and Order, in the same manner as these requests have previously been addressed. Clearly, the circumstances as described above regarding the island of Puerto Rico warrant consideration of such a waiver.

Thank you for your consideration of this important issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Pierluisi", with a stylized flourish at the end.

Pedro R. Pierluisi  
Member of Congress

cc: Commissioner Michael J. Copps  
Commissioner Robert M. McDowell  
Commissioner Mignon Clyburn  
Commissioner Meredith Attwell Baker





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

March 17, 2010

OFFICE OF  
THE CHAIRMAN

The Honorable Pedro R. Pierluisi  
U.S. House of Representatives  
1218 Longworth House Office Building  
Washington, D.C. 20515

Dear Congressman Pierluisi:

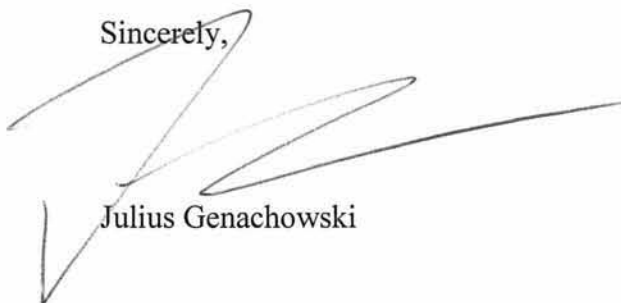
Thank you for your letter regarding how the Commission defines local radio markets for purposes of determining compliance with the Commission's broadcast ownership regulations. I understand your concerns about the impact that the Arbitron market definitions may have on the number of radio stations that may be owned by a single entity in Puerto Rico. I expect that the Commission will examine different types or definitions of market area as it commences its 2010 Quadrennial Review of media ownership.

In 2007, the Commission's Media Bureau granted a request for waiver filed by Arso Radio Corporation to use a modified contour-overlap methodology, rather than Arbitron Metros, to determine compliance with the numerical local radio ownership limits in Puerto Rico. The waiver is conditioned on the resolution of Arso's pending *Petition for Reconsideration* of the Commission's 2002 *Biennial Review Order* concerning the use of Arbitron Metros in Puerto Rico – a matter that remains pending before the Commission. Additionally, the Media Bureau is considering an application to assign the license of WIAC-FM, San Juan, Puerto Rico, which includes a request for waiver of the local radio ownership rule pertaining to use of Arbitron Metros in Puerto Rico. Should the waiver be granted, the proposed WIAC transaction will be evaluated pursuant to the Commission's modified contour-overlap methodology.

The Commission recently commenced the statutorily mandated 2010 Quadrennial Review of its media ownership rules with a series of workshops to receive public input on the scope and methodology of the ownership proceeding. The Commission intends to conduct additional workshops on a broad range of issues relevant to the ownership and operation of broadcast stations in today's media marketplace. We will issue a Notice soon to solicit formal comments on the rules to be reviewed in this proceeding, including rules governing different types or definitions of market area, and we will include your letter in the record.

I look forward to working with you and other Members of Congress as the Commission reviews its broadcast media ownership rules and policies. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,



Julius Genachowski